

AMENDED IN SENATE MARCH 23, 2004

**SENATE BILL**

**No. 1273**

**Introduced by Senator Scott**

February 13, 2004

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An act to ~~add Section 785 to~~ *amend Section 782 of the Insurance Code, relating to insurance.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1273, as amended, Scott. Insurance: misrepresentations.

Existing law provides that it is a crime, punishable by a fine not exceeding \$1,500, or imprisonment in a county jail for a period not exceeding 6 months, for an insurer or his or her agent, to issue, circulate, or use any misrepresentation of the terms of a policy issued by the insurer or sought to be negotiated by the person making or permitting the misrepresentation, or to make any misrepresentation to another person for the purpose of inducing that other person to take out a policy of insurance or to induce that other person to lapse, forfeit, or surrender insurance in a policy he or she holds. *Existing law imposes a special duty of honesty, good faith, and fair dealing on an insurer, broker, agent, and all others engaged in the transaction of insurance with a prospective insured who is 65 years of age or older, except for specified types of insurance transactions. Existing law places restrictions on advertising practices that target senior citizens and the sale of life insurance policies and annuities in the home of a senior citizen.*

This bill would provide that ~~it is a crime~~ *a violation of these provisions is punishable by a fine of up to \$100,000, imprisonment in a county jail for a period of up to one year, or by imprisonment in the state prison to violate or by both that fine and imprisonment. This bill would provide that a violation of these provisions in the course of a*

transaction with a person who is 65 years of age or older *is punishable by a fine not exceeding \$100,000, imprisonment in a county jail for a period not exceeding one year, imprisonment in the state prison, or by both that fine and imprisonment.*

Because this bill would ~~create a new~~ *change the definition of a crime*, it would impose a state-mandated, local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. ~~Section 785 is added to the Insurance Code, to~~  
2 ~~read:~~

3 ~~785. Any person who commits any violation of Section 780~~  
4 ~~or 781 in the course of a transaction with a person who is 65 years~~  
5 ~~of age or older is guilty of a crime punishable by imprisonment in~~  
6 ~~a county jail for a period of up to one year, or by imprisonment in~~  
7 ~~the state prison. Section 782 of the Insurance Code is amended to~~  
8 ~~read:~~

9 ~~782. Any~~ (a) *Except as provided in subdivision (b), any*  
10 ~~person violating who violates the provisions of Sections~~ *Section*  
11 ~~780 or 781 is guilty of a misdemeanor and punishable by a fine not~~  
12 ~~exceeding one thousand five hundred thousand dollars (\$1,500)~~  
13 ~~(\$100,000), or by imprisonment in a county jail for a period not~~  
14 ~~exceeding six months one year, or by both that fine and~~  
15 ~~imprisonment.~~

16 (b) *Any person who violates the provisions of Section 780 or*  
17 *781 in the course of a transaction with a person who is 65 years*  
18 *of age or older is punishable by a fine not exceeding one hundred*  
19 *thousand dollars (\$100,000), imprisonment in a county jail for a*  
20 *period not exceeding one year, imprisonment in the state prison,*  
21 *or by both that fine and imprisonment.*

22 SEC. 2. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

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